



FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

September 23, 2009

Mr. Kurt Schneider

REDACTED

**Re: Advisory Letter
FPPC Case No. 09/382; Kurt Schneider**

Dear Mr. Schneider:

The Fair Political Practices Commission ("Commission") enforces the provisions of the Political Reform Act (the "Act")¹. As you are aware, the Commission received a complaint against you alleging violations of the conflict of interest provisions of the Act. Specifically, the complaint alleged that while you were serving as a Member of the Belmont Shores Parking and Business Improvement Area Advisory Commission ("Parking Commission"), you made, participated in making, or attempted to use your official position to influence a governmental decision that had a reasonably foreseeable material financial effect on your economic interest. The Commission has decided to close this case with this advisory letter.

Under the Act, no public official at any level of state or local government may make, participate in making, or in any way use or attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know he/she has a disqualifying conflict of interest. (Section 87100.) To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests; (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standards for each economic interest involved; (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest; (7) does the legally required participation exception apply; and (8) does the public generally exception apply. (See Regulation 18700.)

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

As a Member of the Parking Commission, you were a public official under the Act. By participating in discussions on the valet parking proposal, including at the Parking Commission's public meetings on May 21, 2009, you participated in making, or attempted to use your official position to influence a governmental decision. According to our investigation, you own several parcels of real property within the jurisdiction of the Parking Commission, including property located within 500 feet of the proposed site for the valet parking stand; therefore, your economic interest was directly involved in the governmental decision. However, since you lease the property to a business owner, and since you have no financial interest in the business establishment located on your leased property, it appears as though the valet parking proposal would not have a material financial effect on the value of your real property or on your income. However, even if the valet parking proposal had a reasonably foreseeable financial effect on your real property, it appears as though the public generally exception would apply. (Sections 87103, Regulations 18700(b)(7), 18707.1, and 18707.4.) Specifically, the valet parking proposal would likely increase the value of your property in a manner that would be substantially similar to the increase in the value of property parcels of a significant segment of other property owners within the jurisdiction of the Parking Commission.

We have found insufficient evidence in this matter to establish a violation of the Act. As a result, we are closing this case with this advisory letter. Please be advised that failure to comply with the provisions of the Act in the future may result in monetary penalties of up to \$5,000 for each violation.

For information regarding conflict of interest provisions of the Act, the Commission publishes forms and manuals to facilitate compliance. For guidance regarding the obligations under these provisions, please call the Commission's Technical Assistance Division at 1-866-275-3772, and visit our website at www.fppc.ca.gov. If you have any questions regarding this matter, please feel free to contact me at 916-322-5660.

Sincerely,

REDACTED

Mellonie S. Yang
Assistant Chief of Enforcement